









# PART OF COUNTY ACT IS MADE NULL AND VOID

## The Supreme Court Expunges the Proposed Board of Public Institutions.

The Board of Public Institutions created by the County Act is no more. Yesterday afternoon the Supreme Court rendered a unanimous decision making the County Act, so far as it relates to the Board of Public Institutions, null and void.

Superintendent Henry E. Cooper, it happens, has officially lived just long enough to enjoy one evening's triumph over the Legislature's attempt to deprive the Superintendent of Public Works of the greater part of the functions that the Organic Act prescribed he should exercise. The case now decided arose from the resistance of Mr. Cooper to the authority of the Board of Public Institutions.

Judge Gear decided that the Board of Public Institutions was an illegal body in that its members were not appointed as such by the Governor; the Organic Act placing the appointment of all boards of a public character among the duties the Governor should perform. He touched upon other points raised, but found it unnecessary to decide the one attacking the validity of the entire statute—namely, that the bill had not passed the three readings in each house of the Legislature which the Organic Act requires.

The Supreme Court finds the County Act to be illegal, so far as it relates in title and text to the Board of Public Institutions, because, contrary to the Organic Act, it embraces more than one subject. It not only provides for "the organization and government of counties and districts," but for "the management and control of public works and public institutions therein"—that is, in the counties and districts.

While mentioning the several lines of attack on the Board of Public Institutions which Mr. Cooper's counsel took in resisting the writ of mandamus, the Supreme Court contents itself with deciding the main issue raised in the petition for the writ. As the Circuit Judge had done, it leaves the validity of the County Act as a whole an open question. There is nobody or nothing in the world more steadfast than courts of justice in observing the principle of not crossing a bridge before it is reached.

This was a test case, so far as it went, for which the outcome has been eagerly awaited by the people of the Territory, who have just participated in the first elections under the County Act. Therefore the decision of the Supreme Court in full is here presented to the readers of the Gazette:

### COUNTY ACT CASE DECISION IN FULL

In the Supreme Court of the Territory of Hawaii, October term, 1903.

In the matter of the application of Sanford B. Dole, Governor, George R. Carter, Secretary, A. M. Kepoikai, Treasurer, J. H. Fisher, Auditor, A. T. Atkinson, Superintendent of Public Instruction, and Lorrin Andrews, Attorney General, as the Board of Public Institutions of the Territory, for a writ of mandamus against Henry E. Cooper, as Superintendent of Public Works of the Territory.

Appeal from Circuit Judge, First Circuit.

Submitted November 5, 1903.

Decided November 17, 1903.

FREAR, C. J., GALEBRAITH AND FERRY, JJ.

An act entitled "An Act providing for the organization and government of counties and districts, and the management and control of public works and institutions therein," is invalid as to so much thereof as purports to create a Territorial Board of Public Institutions and to transfer to it matters theretofore belonging to the Territorial Superintendent of Public Works, and with which the counties were to have nothing to do, in view of Sec. 46 of the Organic Act, which provides "that each law shall embrace but one subject, which shall be expressed in its title."

#### OPINION OF THE COURT BY FREAR, C. J.

This is an appeal from an order denying a writ of mandamus to compel the respondent to deliver to the petitioners the control of all matters relative to harbors, wharves, pilots and fowage, and of all property used in connection therewith, and the control and management of the executive and judiciary buildings at Honolulu, as required in terms by Sections 484 and 485 of Act II of the Laws of 1903, commonly known as the County Act.

Chapter 54 (Secs. 384-391) of that Act purports to create a Board of Public Institutions consisting of the Governor, Secretary, Treasurer, Auditor, Supt. of Public Instruction and the Attorney General of the Territory and to prescribe its powers and duties. It purports to transfer to it many powers and duties which have hitherto belonged to the Superintendent of Public Works. The defense is that this chapter is null and void because it conflicts with the Organic Act and more particularly with (1) Sec. 50 which provides that the Governor shall appoint with the advice and consent of the Senate, certain officers and boards and "any other boards of a public character that may be created by law," in that it creates a board of a public character not appointed by the Governor at all as to two of its members, the Governor and Secretary, and is limited by him as to the members of the board. All of the members of the board appointed by him in the Organic Act are limited by him in the exercise of their powers. (2) Sec. 46, which provides that each law shall embrace but one subject, which shall be expressed in its title. (3) Sec. 47 which provides that there shall be a Superintendent of Public Works with powers and duties over certain specified matters, though subject to modification by the Legislature, in that it takes from such Superintendent a substantial part of such

powers and duties; and (4) Sec. 44, which provides, among other things, that, except under certain circumstances, a bill, in order to become a law, shall pass three readings in each house and that the final passage shall be by yeas and noes entered on the Journal. In that, as contended, the House Journal shows merely that the report of the conference committee was adopted by the House in the manner mentioned and does not show that the bill passed third reading in that body.

In sustaining the order appealed from we base our opinion upon the second of these grounds, and express no opinion upon the others.

It is true that the provision of the Organic Act "that each law shall embrace but one subject, which shall be expressed in its title," should be liberally construed, and that an act of the Legislature should not be held void on the ground that it conflicts with this provision, except in a clear case. It is sufficient if the various parts of an act have a natural connection, and fairly well embraced in one subject, though somewhat general, and expressed in the title. See *In re Walker*, 9 Haw. 171; *Carter County v. Sinton*, 120 U. S. 517.

But is this the case with the Act in question? Its title is "An Act Providing for the Organization and Government of Counties and Districts, and the Management and Control of Public Works and Public Institutions therein." We presume this title is unobjectionable from the mere fact that it is in two clauses, each of which in form sets forth a separate subject. The mere form is of little consequence. Much room must be left for the exercise of legislative discretion in the wording of the title. It is unquestionable that to the first clause of the title in question there is added the second in so far as county works and institutions are provided for. In the Act, and doubtless these might be provided for incidentally under the first clause if the second were omitted. How far provisions relating to Territorial as distinguished from County matters could properly be included in the Act is a question of degree as they could not very well be separated or as declaratory provisions in order to make clear the precise line of separation, we need not say. In this instance the Legislature did not attempt to do anything of that kind. It attempted to create a distinctively Territorial board of public institutions and to transfer to it from distinctively Territorial officers matters in respect of which the counties were clearly to have nothing to do and in respect of some of which they in the very nature of the case would have nothing to do. It acted as if the title were "An Act providing (1) for the organization and government of counties and districts and (2) the management and control of Territorial works and institutions." This was clearly inconsistent with the provision of the Organic Act above quoted. Accordingly we must hold that such portions of the County Act as were designed to create a Territorial board of public institutions and to transfer to it duties and powers theretofore belonging to the Superintendent of Public Works is invalid, namely, Chapter 54 of Act II of the Laws of 1903, and Sections 484 and 485 and any other portions of said Act necessarily dependent thereon.

The order or decree appealed from is affirmed.

Attorney General L. Andrews for petitioners.  
Kinney, McClanahan & Cooper and R. H. Derby for respondent.

# DEATH OF MRS. MIRIAM BINGHAM AFTER AN ILLNESS OF TEN YEARS



THE LATE MRS. BINGHAM AND HER HUSBAND, THE REV. MIRIAM BINGHAM.

After an illness that had lasted for ten years, one contracted through the hardships of early missionary work among the natives of Micronesia, Mrs. Minerva Clarissa Bingham, wife of the Rev. Hiram Bingham, died at the family home in Alexander street last evening.

Mrs. Bingham had been a sufferer for ten years from paralysis agitans. Every care has been taken of her during that time, but she had been gradually failing in health until last May she fell a victim to the dengue fever. Since then she has been confined to her bed.

Mrs. Bingham was well known as a woman of high character and lofty ideals. Throughout the small islands that dot the seas of Micronesia she is known to the natives as a friend and helper. Had she lived until next October she would have been seventy years old. She was born at Northampton, Mass., on October 19, 1834, and received her education there. It was in Massachusetts that she met the then young Hiram Bingham, son of one of the earliest Hawaiian missionaries, who was in the East receiving an education preparatory to leading a life of religious activity in the South Pacific. Her marriage to Mr. Bingham was solemnized on Nov. 18, 1856, only nine days after he had been ordained a minister. The young couple immediately made preparations for their trip to Hawaii and a couple of weeks after the marriage were on board the brig, "Morning Star," the first missionary vessel of that name, starting on a long homeward voyage around Cape Horn to Hawaii and the islands of Micronesia. They reached Honolulu on April 24th of the following year and within a few months were at Ponape, where an assembly of missionaries decided that the young couple should take up their labors at Apia. They commenced their work at the latter point on Nov. 18, 1857, and the hardships they had to endure there for many years, living on the food of the South Seas and in quarters very unlike a comfortable New England home, undermined the health of Mrs. Bingham and also of the Rev. Mr. Bingham.

Nearly half a century ago missionary life in Micronesia was a very strenuous undertaking. Sometime ago Mr. Bingham gave a brief account of some of the hardships incident to labors of himself and wife in Micronesia from the time that they settled at Apia. One year's work, contending with climate, bad food and other evils, was enough to break down Mr. Bingham's health, and he returned to Boston, where he superintended the building of the second "Morning Star."

When that vessel was built, he went in command of her on another voyage to Micronesia until his health broke down again and he came to Honolulu. Here he remained for some time, returning to the Gilberts in 1868. The Gilbert Islands when Mr. Bingham first went there was a very undesirable place. The inhabitants were warlike and jealous among the chiefs excited constant wars. Some chiefs under the influence of the missionaries began to enact laws against theft, murder and other crimes and were trying to establish somewhat permanent law and order. This state of affairs displeased rival chiefs and a great war threatened.

The king of Apia, upon which island the missionary station was, joined forces with the king of another island and in withdrawing his men left the missionaries to the mercies of the attacking forces which swarmed over the island when the king and his men had left. These people were utter savages and during the several months of

their stay the lives of the missionaries were never safe. The savages swarmed about their houses and allowed themselves all kinds of liberties. Mr. Bingham and his wife were the only missionaries there and could do nothing.

One incident among the many which Mr. Bingham told may serve to show how fearful the uncertainty of their lives was to the little band of missionaries. One morning Mr. Bingham discovered a big, burly savage crawling through a claspboard which served as a window. As the fellow was evidently intent on stealing, Mr. Bingham started him by letting down the claspboard with a bang, by means of a string with which it was generally opened and shut. The noise so scared the savage that he took to his heels. His comrades, who stood near by, ridiculed him on seeing this, and this made the fellow very angry, as the natives are very sensitive to ridicule. He consequently went up to Mr. Bingham and pushed him with his shoulder. Mr. Bingham stood his ground for some time, the savage standing next to him and shoving him every now and then. Mrs. Bingham finally appeared and called the husband in to breakfast and Mr. Bingham gladly took the excuse for getting away. This did not end the incident. After breakfast, when Mr. Bingham went in to the meeting-house where there was a large number of the savages assembled, he would be followed behind him among them and followed behind him up to the room where Mr. Bingham sat down in a chair. The natives immediately squatted down on the floor in front of him and, producing several pistols, began pointing them at him, first one and then the other. Mr. Bingham thought that his last hour had come, but he remained calm, closed his eyes and prayed. The natives did not fire, however, but kept on hitting, there, lifting up the pistols and aiming every now and then. The rest of the natives fled out of the room gradually leaving Mr. Bingham, the savage and the native assistant alone. For two hours they remained thus, Mr. Bingham expecting every moment to be his last, but finally the savage got tired and left the room without doing any harm.

Many other incidents are told of their life there. One of their children died and was buried at Apia where they had built a cottage. Called away sometime afterward, Mr. and Mrs. Bingham left their home to the mercies of the natives. On their return they found the house torn down and turned into a place of abode for the natives. The little one scattered about the yard. Another son, Hiram Bingham Jr., survived the vicissitudes of early missionary life and is now an instructor of history at Harvard.

Mrs. Bingham left work in the Gilbert Islands that will endure for all time. She became thoroughly acquainted with the Gilbert tongue and translated a number of works into that language. "She gave the Gilberts a 'Reading Book,' 'Old Testament Bible Stories,' 'Primary Geography,' 'Primary Arithmetic,' and assisted Mr. Bingham in translating the whole of the New Testament into the same language.

Mrs. Bingham has been a well known member of Central Union church, and also of the Women's Board of Missions of Central Union church and in recent years very many sympathetic messages have been sent to her by the Board regretting that her health did not permit her to attend the meetings.

In addition to her husband, her sister-in-law, Mrs. Lydia B. Coan, was present at the time she passed away last evening.

The funeral will be held from the Bingham home at three o'clock this afternoon and the interment will be in the old family lot of the Bingham in Kawaiahaeo Cemetery. The Rev. W. M. Kincaid will officiate.

H. H. Williams has charge of the funeral arrangements.

## GENERAL MACARTHUR EN ROUTE TO HONOLULU

SAN FRANCISCO, Nov. 18.—General MacArthur, Col. Proest, Mrs. S. B. Terry and Collector Stackable have sailed for Honolulu on the Korea.

# WILL DOFF THE TOGA AND DON THE ERMINE

## Retiring Governor Dole to Take the Oath as Judge This Morning—Acting Governor Carter Hopes for Smooth Transition.

Sanford Ballard Dole, who has been the head of the government of Hawaii under three distinct forms since January 17, 1893, will, at 10 o'clock this morning, divest himself of the toga of statecraft and assume, for a second time in his career, the judicial ermine.

"I shall be sworn in, in the Federal courtroom, by Chief Justice Frear at ten o'clock in the morning," Mr. Dole replied to a question as to the program for his judicial installation, "and then open court and proceed to business."

"Yes, I shall probably make a few remarks to the bar—nothing formal. Then I shall appoint a committee to draft memorial resolutions in respect to the late Judge Estee."

Mr. Dole was asked if there was anything put forward about the Federal statute directing, on its face that in case of a vacancy in a district judgeship all proceedings then pending shall be continued to the next stated term of the court affected.

He answered that he had looked the matter up. "Everything goes over to the next term," he added, "but that does not prevent parties from presenting their cases. It will put it in the hands of parties themselves whether they will go to trial forthwith or not."

District Attorney Breckons, to whom the same inquiry was previously made, replied in his dry manner:

"There are some people who think they can run the United States Court without regard to the Judge and the District Attorney."

### THE OATH.

Following is the form of oath that Judge Dole will take:

"I, Sanford B. Dole, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as United States Judge in and for the District of Hawaii, according to the best of my abilities and understanding, agreeably to the Constitution and Laws of the United States; and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

### JUDGE DOLE'S COMMISSION.

The commission of Judge Dole turned up in a pasteboard tube amongst his mail yesterday morning. It is in the form that follows:

"THEODORE ROOSEVELT,

"President of the United States of America.

"To all who shall see these Presents, Greeting:

"Know ye that reposing special trust and confidence in the Wisdom, Uprightness and Learning of Sanford B. Dole, of Hawaii, I do appoint him to be United States District Judge of the Territory of Hawaii and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and Laws of the said United States, and to have and to hold the said office, with all the powers, privileges and emoluments to the same of right appertaining unto him, the said Sanford B. Dole, until the end of the next session of the Senate of the United States and no longer, subject to the provisions of Law.

"In witness whereof I have caused these letters to be made Patent and the seal of the Department of Justice to be hereunto affixed.

"Given under my hand at the City of Washington, the 31st day of October, in the year of our Lord one thousand nine hundred and three, and of the Independence of the United States of America the 128th.

"THEODORE ROOSEVELT.

"By the President,

"P. C. KNOX,

"Attorney General."

### NO FAREWELL ADDRESS.

Governor Dole stated, in answer to an inquiry, that he would deliver no farewell address as Governor, either upon assuming the Judgeship or upon Governor Carter's inauguration.

"I think it is not necessary," was his laconic reason for disapproving the tingling ear.

### OSTENTATION ESCHEWED.

Secretary Carter, who will be Acting Governor ex officio at the moment Governor Dole's resignation takes effect today, said, with reference to that stepping stone stage, when asked yesterday about probable changes this morning.

"Things will go along just the same. I will be in practically the same position as now. As Acting Governor I would only do what was absolutely necessary."

An allusion to what he had said the previous day about resignations elicited from Mr. Carter a remark to the effect that he had reason to expect that Treasurer Kepoikai would present his resignation this morning.

## HAWAII AS SEEN FROM GREATER N. Y.

Mauna Loa, emulating Mont Pelee and Vesuvius, is waving aloft its flags of flame as if to remind us that we have in Hawaii an ideal all-the-year-round American health and pleasure resort. The climate is at all times delightful; hurricanes are as infrequent as snow squalls; the scenery is alternately picturesque and sublime; the flowers and fruits are perennial; the mountains offer game birds and beasts to the sportsmen, and all the discomforts of ordinary travel are prevented by the adoption of the most modern conveniences. This paradise of the Pacific is our own, and we should visit it, enjoy it and develop it. Many tourists who go to look at Hawaii remain for years, but there is room for half a million homes, and the Government offers easy terms. The natives are not like our negroes; their ancestors were hardy enough to row over from Polynesia and intelligent enough to build their ocean canoes and steer by the stars. Now five lines of palatial steamers keep Hawaii in touch with the rest of the world. The Oceanic Company is an American line, and any of its vessels can be transformed into an armed cruiser in thirty-six hours, so that afloat or ashore the visitor to happy Hawaii may be under the Flag.—New York Town Talk.

## THE SUN'S SEASONS

LAPORTE, Ind., Nov. 9.—In a statement made today Alexander Young, a local astronomer, who has in the last year made several important discoveries concerning the condition and functions of the sun and has asserted the existence of life on that planet, announced his conclusions concerning the solar seasons.

Young has found that the sun is blessed with a climate of perennial summer, divided between seven months of vernal, or springlike, summer and five of deciduous, or autumnal, summer, marked by changes in the vast masses of forest foliage observed by him through the instrumentality of the solascope which he has invented. At this time red and reddish brown hues prevail, to be replaced in January by the living green of summer.



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FRIDAY : : : NOVEMBER 20

## SANFORD B. DOLE.

The retirement from executive office of Governor Dole after a term of nearly eleven years is an event which serves to especially recall the extent of duties which he has rendered at the head of the government of Hawaii. When, in 1893, the native monarchy was thrust out of the way of progress, it was ours to choose a man of conservative temper and staunch character and one who had the confidence of the whole people and could gain that of foreign governments, to take the lead in the annexation movement which followed the overthrow. The American party turned unanimously to Sanford B. Dole. He was a Justice of the Supreme Court and had always enlisted with reform political movements in the kingdom. Whatever the issue he had been found on the right side. Asked to become chief of a Provisional Government and then accepted the office of President.

From the quiet and peace of judicial chambers he was plunged at once into the strenuous life. Surrounded by armed men he carried on the functions of government partly as a civil and partly as a military chief, and he made no mistakes in working out a middle policy of sound administration. His earliest work was to seek annexation to America but the coming into the Presidency of Grover Cleveland not only balked his plans but put the government over which he presided into an attitude of defence against the misused powers of the government of the United States. To those of us who recall the inflexible stand of President Dole when a demand for the restoration of the monarchy came from Cleveland's envoy and the keen ability with which he addressed himself to the diplomatic interchange which followed, admiration for him as a statesman mingles with thankfulness that the American party here made so wise a choice of its political leader.

Having won his battle for independence, leaving scars upon the Cleveland administration which were never healed, President Dole addressed himself to questions of administrative reform. For almost the first time since the day of complete missionary ascendancy in Hawaii, the land had an honest and capable government. Its credit steadily rose and despite military expenses, which could not be avoided, there was always a surplus in the treasury.

President Dole drew about him a cabinet of strong men, the ablest and most unimpeachable cabinet, in the complete personnel which the islands had ever seen. With the help of these advisers, he managed difficult questions with consummate tact and few new governments have ever had more perplexities to meet. There were enemies on every side. The American government was capricious and unfriendly. Japan began pressing for the suffrage as a gain control of domestic administration and make Hawaii a trade dependency; at home the natives and a strong group of aliens were plotting against the State; and over it all was the fear that the reciprocity treaty might be attacked and overturned in Congress.

Meanwhile the Provisional Government was changed to a Republic, President Dole remaining at the head of the new State. Prosperity grew apace but annexation seemed far off. At no time was the Federal Senate ready to accept a treaty, though more than one was proffered. Against Hawaii's ambition stood, with sullen obstructiveness, the Sugar Trust, which also conspired against reciprocity. The best Mr. Dole's envoys could do at Washington was to keep things in statu quo.

Then came the Wilcox revolt of 1895, an uprising which proved the strength of the Dole government and the military weakness of its adversaries. Though vastly in a minority as to numbers throughout the group, the citizens of the Republic formed about President Dole in solid phalanx and were always masters of the crisis. Never for a moment did the President lose his poise. He knew what to do and did it in the right way; and when the rebels and their accomplices, with the former Queen at their head, were imprisoned, he let no impulse of revenge dusk the clear mirror of his humanity. Like Lincoln he tempered justice with mercy; and if he earned no gratitude for it from those whose forfeited necks he spared, he strengthened his cause at home and abroad, and in the contrast which his leniency afforded to the barbaric violence of the Queen, who had demanded heads as the price of her return to power, he marked the vital difference of the old order and the new in these emancipated islands. The world did not miss the contrasts nor fail to read the lesson aright.

The years that followed were hardly less strenuous than those which had gone before. If the era of revolution had passed, there was still the labor there, the diplomatic pressure of the Japanese, the flood of "free" Asiatic immigration, the claims of the alien immigrants after the Wilcox amnesty, the cholera and a host of minor ills. Yet the great man at the head of affairs never lost his faith or his temper or his capacity to deal with emergencies. Opposing him and intriguing against him was the last United States Minister, ambitious himself to take the lead in Hawaii, but never for a moment did the President swerve from the straight line of duty to fight out a per-

sonal grievance. Whatever happened, the Hawaiian executive, imperturbable and serene, did what was best for the country, never considering himself, looking only to the greatest good for the land in which he was born and where his life-work lay.

Was brought the hour of annexation and here again, the sound judgment of the President asserted itself. Some of Mr. Dole's best friends and advisers, men devoted to the cause he had at heart, urged him to declare the republic neutral as between the United States and Spain. "Such a blunder, as all see it now, would have been worse than a crime," but Sanford B. Dole, with the insight of a statesman, saw its full meaning at a glance and he wrote President McKinley putting Hawaii at the service of the United States. It was not long before the Stars and Stripes rose upon the towers of the capitol. For five years the President had held vigil for that day, and the end crowned his patriotic work.

Still he could take no rest. Faction raised its voice to prevent his becoming Governor; but Mr. Dole had deserved and won the confidence of those elements in any country which shape its affairs if they wish to do so and they saw that President McKinley was not deceived as to the personality of Mr. Dole or the needs and wishes of Hawaii. The Governorship was offered to the man who had earned it. Mr. Dole was not ambitious for office; his health was broken; he wanted rest and freedom from responsibility; but the demands of the new Territory were imperative and he acceded to them. He entered office with the treasury surplus gone to pay for the battle with the hibiscus plague and at a time when demands for public outlay were greatest. Through the labyrinth of debt and doubt he led the way to firm ground, only to find himself undermined at Washington by men who had been driven from plunder by the triumph of his American policies. For weeks there was danger of his removal; but when the business interests of Hawaii, always as tardy in action as decisive in results, asserted themselves, Governor Dole received a splendid vindication from President Roosevelt who gave out officially: "The President, after most careful investigation and hearing as many men as possible and hearing from others has come to the conclusion that Governor Dole's administration is such as to warrant his continuation as Governor of Hawaii and entitles him to the respect and hearty support of the administration." It was the very irony of fate that some of those who were deepest in the plot to secure the Governor's removal soon had their political power utterly broken by the exposure of their misconduct in office.

Today, the long executive career of Sanford B. Dole ends with his exchange of the Governorship for the bench of the Federal Court. Looking backward over more than a decade one can see how surely, when the emergency came, the man was here to meet it. As President Mr. Dole did not suffer in contrast with some executives that have bowed in a wider field. He was accepted by thinking men in the United States—born under an alien flag though he was—as a great American. Let the factional storm rage never so wildly against him, his mere endorsement at Washington was enough to win him the respectful fellowship of the masters of American destiny. Presidents welcomed him as a friend and an intellectual and moral equal. As President he has served in a more restricted sphere than he did as President, but with a fidelity to honor, with a standard of public service, with a certainty of judgment, which makes his appearance in the Federal Judiciary as honorable to the bench as it is gratifying to him.

Judge Kepoikai does not dignify himself or his race by refusing Acting Governor Carter the courtesy of his resignation. The Treasurer takes the ground that there is no necessity for him to be polite and that, having been confirmed by the Hawaiian Senate and commissioned for four years, he is not called upon to leave before the term ends. Apparently Judge Kepoikai forgets that a Governor is supposed to appoint all heads of departments and that it is the commonest civility under the American system when one Executive retires for his appointees to go with him and to give the new Executive a free hand. Every member of former Governor Dole's official family has met that obligation but Kepoikai. He alone assumes a role which self-respect cannot approve and which will rise up against him in future should he ask preferment at the hands of the party here or of a Republican national administration.

The Dominican rebels seem eager for a quarrel with the United States. First they repudiate American claims which the regular government had agreed to pay; second they fire on an American merchant steamer and thus make themselves liable for more indemnity. Under the circumstances the United States would be justified in making an offhand treaty with the President of San Domingo permitting it to interfere, disperse the rebels, preserve the peace and establish a protectorate. As annexation is written on the wall it might as well be anticipated by some form of lawful occupancy now.

Two departments or states of Colombia wish to join the republic of Panama. If they should be admitted, the fact would add to the difficulties of the Colombian President and to the incentive for hostilities. While Marroquin might conclude to let the little lathyrus go without a fight he could hardly be complacent over the loss of Cauca and Antioquia. Again, if annexation is in the air, as seems probable, the United States might not care to go beyond the scientific frontier which the lathyrus alone affords.

The Independent announces, whether officially or not it omits to say, that if the present grand jury does not indict some one for "election frauds," that body will be dismissed and a second jury chosen that can be counted on. Does this portent another grand jury packed by the Home Rule sympathizers on the Circuit Bench?

## THE KEPOIKAI CASE.

The latest chapter of Judge Kepoikai upon the office he now holds is considered good. The Advertiser, for one, has not questioned it. If Judge Kepoikai chooses to remain as Treasurer he cannot be removed by the Governor and Senate unless they shall establish charges against his competency or probity or both, or unless, in the meantime, Congress shall empower the Territorial Executive to remove heads of departments at will.

Be the question a matter of law but of custom and civility. In a way the great offices of the Territory resemble those held by the cabinet ministers of the President. They are not independent bureaus but are branches of the central administration. The work of the departmental chiefs, collectively, makes up the record and policy of the Government. The latter's annual report to the Secretary of the Interior must describe and explain what the Treasurer, the auditor, the Superintendent of Public Works, etc., have been doing in their official capacities. He alone speaks for them. If things have gone wrong with these officials the Governor is held to technical account as the appointing power. Being so responsible it is but fair that his right to appoint should not be limited by anything save the co-ordinate rights of the Senate. Nor is it except when Governors change and some official who had received his commission from one Executive insists upon staying in office under another. A case like that so rarely happens—heads of departments usually being gentlemen, accustomed to American official etiquette—that the law does not make provision for policy removals. President Roosevelt, for example, could not have removed a single member of President McKinley's hold-over cabinet. But he was dealing with American statesmen and gentlemen—not with feed-fought politicians and the absence of a law did not worry him. The resignation of each member of the Cabinet was presented to him at once. So it has always been at Washington save in the case of Secretary of War Stanton, who, urged by the Senate and by the Republican party, held out against the notorious President Johnson who had threatened a despotism of the army against the legislative power. Secretary Stanton's act was patriotic in a broad sense and cannot be used as a precedent for the porcupine greed of Kepoikai in trying to force himself into an administration where he is not needed or wanted and where his utter ignorance of all things financial, save the drawing of his pay, is likely to bring derision upon the new Governor's fiscal policy and public disgrace upon himself. When that disgrace comes he will not find a single sympathizer in the hub of disbarred attorneys, disgraced ex-candidates, graduated embassiers and the like who are urging him to disturb and embarrass the administration of which he insists upon forming a part.

## CARTER AND BONDS.

Mr. Darnen was none too generous in his praise of Acting Governor Carter's work in placing the Hawaiian bonds. For the first time in the local history of such transactions, the result has been wholly satisfactory and the delays absent. Mr. Carter, under such a delicate task and under no mistakes from the beginning. Two bonds were not only placed speedily but a saving of \$16,000 was made by the reduction of interest and of \$16,000 by improving upon the original plan of sale. The result and the methods of attaining it mark Mr. Carter as a master of such financial problems as occur in the processes of governmental administration here.

The late Mrs. Hiram Bingham was a type of the sincere and self-sacrificing missionary who brought a knowledge of the Bible to the natives of the tropical Pacific islands. Nothing could be more sincere than her religious faith. It took her far from home and kindred into the haunts of savage tribes where her life was always in peril and where her only reward was in the consciousness of duty done. Such missionaries are among the noblest and bravest of all the pioneers of civilization.

The Bulletin's desire for an investigation of "election frauds" which did not occur has been gratified. The grand jury finds that nothing occurred at the polls to warrant the indictment of anybody. This pours a bucket of cold water on the Home Rule sobriety case, the evidence of ballots not only having been passed upon by a competent tribunal but the ballots themselves having been unsealed and examined by fourteen men, an act which relieved the accused election officers of sole responsibility for the condition of the voting paper.

Nothing is seen of the Colombian army that was supposed to be marching on Panama. It may have heard the American salutes to the new flag and turned back. If so the Colombian army should be complimented on its discreet behavior.

Now that part of the County Act has been decreed invalid perhaps good government would be served—especially in the other counties of the group—by an attack upon the legality of the whole thing.

The Independent should not try to tell what it doesn't know about American political methods. It hasn't the space.

The Promotion Committee, in taking up the task of getting American farmers into the country, is doing more to build Statehood than any other force. Hawaii can never be a State with its present electorate. It must have an American population to win the confidence of the American Congress. Nothing contains a stronger assurance of that than the history of the abortive half-century attempt of Lathyrus New Mexico to make its way into the statehood.

## REPORTS OF COURT PROCEDURE.

Justice Brewer's indictment of the American jury system continues to attract the thoughtful interest of public men. That eminent member of the U. S. Supreme Court declares that public opinion is rightly directed against the existing jury system on three points: First, the provision that a jury must be composed of twelve persons; second, the methods used for the purpose of securing a jury free from prejudice or pre-determined opinion; and third, the requirement that the decision be the unanimous opinion of the twelve jurors.

He declares that there is no magic in the number twelve for jurors, no mysterious reason why there should be that number instead of eight or sixteen. The idea of a jury trial is "to ascertain the average judgment of the community on the merits of the controversy." It is not necessary, declares the justice, to have a fixed number of jurors in getting at this average judgment. "It may well be," he says, "that where a man's life is at stake, or where the amount in controversy is large, twelve would not be regarded as excessive, but where lighter offenses are charged or the amount in controversy is small, it would seem that the ends of justice would be subserved were there but six or eight jurors, and certainly time and money would be saved thereby."

But this objection is trivial when compared to the objection contained in the second point, with respect to the manner in which jurors are selected. Under the practice in most courts the best material from which juries might be secured is barred from the selection. Bright men who read and keep themselves informed are sure to have information of every crime of consequence, and information without some sort of an opinion is an unnatural condition. The struggle of lawyers is in fact on the jury which men are easily moved by eloquence, or who may be confused by contradictory evidence into a condition of doubt. This struggle has resulted in carrying the doctrine of "no opinion" to an unreasonable extent. "No man should be held disqualified," declares Judge Brewer, "because he has read the newspaper report of a transaction or even heard some of the witnesses talk about it, and from reading or hearing has formed a passing opinion upon the case. No one for a moment supposes that the judge is disqualified or that he will incorrectly declare the law although he may have heard the whole story of the transaction. No more should an intelligent, honest man be held disqualified from passing judgment upon the facts for the simple reason that he has read or heard the story."

Judge Brewer would dignify the jury system by freeing the jurors from the many annoyances to which they are subjected. He would increase the pay of the jurors. "He should not," continues this eminent authority, "be compelled to work more hours than the judge. To shut him up and keep him confined day and night is a crime against society. He is treated too often as an object of suspicion—although he is probably dishonest, and must be specially shielded from temptation. Why should he be shut up when the judge is not? A bad man on the bench or in the jury box will surely find ways to be tempted, and few things are more calculated to degrade him in the sight of the jury and to bring out all the evil that is in him than the consciousness that he is an object of suspicion. I have been thirty-seven years on the bench, and take pleasure in recalling that, so far as it was possible, I always relieved the juror from confinement other than such as I myself submitted to; that I endeavored to make him in the discharge of his duty free from annoyance and suspicion. And I have not the slightest reason to doubt that the course thus pursued resulted not merely to the comfort of the juror, but in a better administration of justice."

Having brought a better class of men to the jury box through the methods here indicated, Justice Brewer would do away with the unanimity rule and have a verdict returned by two-thirds or three-fourths of the jurors. "Why," he demands, "should the unanimity rule be deemed essential? Neither in legislative halls, among judges, in arbitration proceedings, nor in scarcely any other body called to make a determination, is it the rule. In my judgment, the great objection to the jury system as it is administered today, and the one which more than any other threatens its overthrow, is this rule of unanimity. Were it abolished, less time would be wasted in impeding a jury, and a better class of jurors would certainly be selected. More than that, the truth would be more certainly determined. How often, in criminal cases, do ten or eleven jurors yield to the obstinacy of the remaining, and agree on a verdict for a lower degree of crime than they really believe the defendant to be guilty of? And in actions for the recovery of money, how often is the amount of the verdict affected by the obstinacy of a single juror?"

Here in Hawaii the jury system is in worse case than on the mainland and Justice Brewer's opinion of it would be interesting. Originally we had color line juries; that is to say, white men tried white men while aborigines tried aborigines. The system was as good a guarantee of justice as could be had under the fallible jury scheme as a whole. But annexation brought mixed juries with the result that no white man seeking justice from a native can be sure of getting it from the native jurymen; and any native trying to wreak injustice upon a white man will generally have the support of native jurymen in the attempt. Furthermore, native grand jurors may usually be depended on to clear an accused man of their own race, however strong the evidence may be against him. Such a state of things threatens the foundations of our common social order.

Carrie Nation has joined the army of cranks who are pressing on the President. At the rate the queer people are rallying about the White House the Government will soon need to post another wing on the building for a receiving hospital.

## LOCAL BREVITIES.

(From Wednesday's Daily.)

Miss Maria Hede has gone to take charge of the wireless telegraph station on Lanai.

Dr. Cofer has gone to Mahukona to appoint an assistant quarantine physician at that port.

Information is wanted regarding the whereabouts of William Webb, alias Karl Leo, age about 35 years.

C. H. Kluegel, the well known engineer, is a candidate for the office of Superintendent of Public Works.

Dr. Cofer, chief quarantine officer, has been asked from Washington for data respecting Mauiola Island, the site of Honolulu quarantine station.

Dr. Walter Hoffman was called suddenly yesterday to go to Kauai, and will not return until Friday or Sunday. During his absence Dr. Carl Hoffman, of Waipahu, will look after the doctor's office.

Dr. R. G. Curtis left with his bride in the Kilauea for Hilo, where the doctor is a practitioner. Mrs. Curtis was a Miss Blair of New York, who arrived in the Alameda. The marriage took place here on Monday.

(From Thursday's Daily.)

Acting Governor Carter for the present occupies the office quarters of the Secretary of the Territory.

Alexander Young received a cablegram yesterday before departing on the Alameda for the Coast stating that Mr. Young was better.

The S. C. Allen company have brought a mortgage foreclosure suit on a date for \$1200 with 7 1/2 per cent interest against John C. Cropper.

Roy H. Chamberlain, Collector of Internal Revenue, called to Deputy Collector Harry G. Gough that he would return in the steamer Korea.

Dr. H. C. Watt of Kauai was naturalized by Judge Dole yesterday. He was a former subject of Great Britain.

Judge Alexander Lindsay was admitted to practice in the United States court upon motion of J. J. Dunne yesterday.

Edward Kunst has brought suit against Otto Ludlow et al. to foreclose a mortgage on land in the Kailua tract. The amount claimed is \$1100.

Judge Dole yesterday ordered the arrest of F. J. Turk for failure to pay the fine imposed upon him for violation of the shipping laws.

Congress General Goodnow was in charge of two American soldiers on the Hongkong Maru yesterday. They were members of the legation guard at Peking and are being taken to San Quentin to serve a term for burglary.

Postings of tax collections for Oahu this month on the 15th of which taxes became delinquent, have not yet been made on account of the returns from Waiuku, Koolaula, and Koolahou not having been received. In round numbers Honolulu has contributed \$495,000 and Oahu \$132,000.

## MERCHANTS SUSTAIN FEDERAL JUDGE DOLE.

The directors of the Merchants' Association, at a special meeting held yesterday, adopted the following resolution:

Whereas, the business and other property interests of the Hawaiian Islands have for the past decade been well and safely guarded and protected by the wise and conservative policy of the Honorable Sanford Ballard Dole in his capacities as chief executive of the various governments of these islands; and

Whereas, the President of the United States has favored this community with the appointment of Mr. Dole as Federal Judge to interpret the Federal laws as applicable to the Territory of Hawaii, now therefore be it

Resolved, that the Merchants' Association of Honolulu, express its appreciation of the great and distinguished services rendered by the Honorable Sanford Ballard Dole in the past as well as its gratification in his appointment to the high judicial position at the United States for the Territory of Hawaii, and be it further

Resolved, that a copy of these resolutions be presented to Judge Dole and also published in the public press.

## KEPOIKAI DENIES THAT HE HAD PROMISED TO RESIGN.

(Continued from page 1.)

spect of Presidential Cabinet officers. It has not escaped my attention that, almost before the ink was dry upon the cablegram announcing your prospective appointment as Governor, you were out in an interview wherein you in effect demanded the resignations of all heads of departments. The extreme impropriety of such a course on your part, at so very early a stage of your anticipated incumbency of the executive chair, must now be as apparent to you as it is to all the rest of the community. There are many who look upon your premature and frequent interviews in this respect as nothing less than insulting to the incumbents of the offices referred to, and an impeachment of the judgment of the distinguished gentlemen to whom they owe their appointments. And whatever may have been my views as to resigning my office upon the consummation of the change in question, your own most objectionable course in this regard would of itself have been sufficient to lead me to a change of mind.

However much we may differ as to what is my right and duty in the premises, you may safely rely on my hearty co-operation with you in all matters calculated to promote the best interests of the people of this Territory, without regard to race, creed, color, or political affiliation.

Very respectfully yours,  
A. N. KEPOIKAI,  
Treasurer of the Territory.

## Pains in the Back.

Are symptoms of a weak, torpid or stagnant condition of the kidney or liver, and are a warning it is extremely hazardous to neglect, as important is a healthy action of these organs.

They are commonly attended by loss of energy, lack of courage, and sometimes by gloomy foreboding and despondency.

"I had pains in my back, could not sleep and when I got up in the morning felt worse than the night before. I began taking Hood's Sarsaparilla, and now I can sleep and get up feeling rested and able to do my work. I attribute my cure entirely to Hood's Sarsaparilla." Mrs. J. N. Priddy, care H. S. Copeland, Pike Road, Ala.

## Hood's Sarsaparilla and Pills.

Cure kidney and liver troubles, relieve the back, and build up the whole system.

## BUSINESS CARDS.

H. HACKFELD & CO., LTD.—General Commission Agents, Queen St., Honolulu, H. I.

F. A. SCHAEFER & CO.—Importers and Commission Merchants, Honolulu, Hawaiian Islands.

LEWERS & COHEN—(Robert Lawton, Jr., J. Lowry, C. M. Cooke), Importers and Dealers in lumber and building materials. Office 415 Fort St.

HONOLULU IRON WORKS CO.—Manufacturers of every description made to order.

## HONOLULU STOCK EXCHANGE.

Honolulu, November 18, 1903.

SCHAEFER & CO.—Importers Commission Merchants, Honolulu Hawaiian Islands.				
FISHER & COOKS—(Robert Lawrence J. Lowrey, C.M. Cooks.)—Importers and dealers in lumber and building materials. Office, 415 Fort St.				
HONOLULU IRON WORKS CO.—Man- ufacturers of every description made to order.				
HONOLULU STOCK EXCHANGE.				
Honolulu, November 18, 1902.				
NAME OF STOCK	Capital	Vol	Bid	Ask
MEMBERSHIP				
G. Brewer & Co.	1,000,000	100		25
Bonds				
U. S. 4's	5,000,000	20		101 1/2
U. S. 5's	1,000,000	100		101 1/2
U. S. 6's	2,518,750	100		101 1/2
U. S. 7's	2,000,000	100		101 1/2
U. S. 8's	700,000	100		101 1/2
U. S. 9's	2,000,000	100		101 1/2
U. S. 10's	500,000	100		101 1/2
U. S. 11's	500,000	20		101 1/2
U. S. 12's	500,000	50		101 1/2
U. S. 13's	500,000	100		101 1/2
U. S. 14's	500,000	20		101 1/2
U. S. 15's	500,000	100		101 1/2
U. S. 16's	500,000	100		101 1/2
U. S. 17's	500,000	20		101 1/2
U. S. 18's	500,000	20		101 1/2
U. S. 19's	500,000	20		101 1/2
U. S. 20's	500,000	20		101 1/2
U. S. 21's	500,000	20		101 1/2
U. S. 22's	500,000	20		101 1/2
U. S. 23's	500,000	20		101 1/2
U. S. 24's	500,000	20		101 1/2
U. S. 25's	500,000	20		101 1/2
U. S. 26's	500,000	20		101 1/2
U. S. 27's	500,000	20		101 1/2
U. S. 28's	500,000	20		101 1/2
U. S. 29's	500,000	20		101 1/2
U. S. 30's	500,000	20		101 1/2
U. S. 31's	500,000	20		101 1/2
U. S. 32's	500,000	20		101 1/2
U. S. 33's	500,000	20		101 1/2
U. S. 34's	500,000	20		101 1/2
U. S. 35's	500,000	20		101 1/2
U. S. 36's	500,000	20		101 1/2
U. S. 37's	500,000	20		101 1/2
U. S. 38's	500,000	20		101 1/2
U. S. 39's	500,000	20		101 1/2
U. S. 40's	500,000	20		101 1/2
U. S. 41's	500,000	20		101 1/2
U. S. 42's	500,000	20		101 1/2
U. S. 43's	500,000	20		101 1/2
U. S. 44's	500,000	20		101 1/2
U. S. 45's	500,000	20		101 1/2
U. S. 46's	500,000	20		101 1/2
U. S. 47's	500,000	20		101 1/2
U. S. 48's	500,000	20		101 1/2
U. S. 49's	500,000	20		101 1/2
U. S. 50's	500,000	20		101 1/2
U. S. 51's	500,000	20		101 1/2
U. S. 52's	500,000	20		101 1/2
U. S. 53's	500,000	20		101 1/2
U. S. 54's	500,000	20		101 1/2
U. S. 55's	500,000	20		101 1/2
U. S. 56's	500,000	20		101 1/2
U. S. 57's	500,000	20		101 1/2
U. S. 58's	500,000	20		101 1/2
U. S. 59's	500,000	20		101 1/2
U. S. 60's	500,000	20		101 1/2
U. S. 61's	500,000	20		101 1/2
U. S. 62's	500,000	20		101 1/2
U. S. 63's	500,000	20		101 1/2
U. S. 64's	500,000	20		101 1/2
U. S. 65's	500,000	20		101 1/2
U. S. 66's	500,000	20		101 1/2
U. S. 67's	500,000	20		101 1/2
U. S. 68's	500,000	20		101 1/2
U. S. 69's	500,000	20		101 1/2
U. S. 70's	500,000	20		101 1/2
U. S. 71's	500,000	20		101 1/2
U. S. 72's	500,000	20		101 1/2
U. S. 73's	500,000	20		101 1/2
U. S. 74's	500,000	20		101 1/2
U. S. 75's	500,000	20		101 1/2
U. S. 76's	500,000	20		101 1/2
U. S. 77's	500,000	20		101 1/2
U. S. 78's	500,000	20		101 1/2
U. S. 79's	500,000	20		101 1/2
U. S. 80's	500,000	20		101 1/2
U. S. 81's	500,000	20		101 1/2
U. S. 82's	500,000	20		101 1/2
U. S. 83's	500,000	20		101 1/2
U. S. 84's	500,000	20		101 1/2
U. S. 85's	500,000	20		101 1/2
U. S. 86's	500,000	20		101 1/2
U. S. 87's	500,000	20		101 1/2
U. S. 88's	500,000	20		101 1/2
U. S. 89's	500,000	20		101 1/2
U. S. 90's	500,000	20		101 1/2
U. S. 91's	500,000	20		101 1/2
U. S. 92's	500,000	20		101 1/2
U. S. 93's	500,000	20		101 1/2
U. S. 94's	500,000	20		101 1/2
U. S. 95's	500,000	20		101 1/2
U. S. 96's	500,000	20		101 1/2
U. S. 97's	500,000	20		101 1/2
U. S. 98's	500,000	20		101 1/2
U. S. 99's	500,000	20		101 1/2
U. S. 100's	500,000	20		101 1/2
U. S. 101's	500,000	20		101 1/2
U. S. 102's	500,000	20		101 1/2
U. S. 103's	500,000	20		101 1/2
U. S. 104's	500,000	20		101 1/2
U. S. 105's	500,000	20		101 1/2
U. S. 106's	500,000	20		101 1/2
U. S. 107's	500,000	20		101 1/2
U. S. 108's	500,000	20		101 1/2
U. S. 109's	500,000	20		101 1/2
U. S. 110's	500,000	20		101 1/2
U. S. 111's	500,000	20		101 1/2
U. S. 112's	500,000	20		101 1/2
U. S. 113's	500,000	20		101 1/2
U. S. 114's	500,000	20		101 1/2
U. S. 115's	500,000	20		101 1/2
U. S. 116's	500,000	20		101 1/2
U. S. 117's	500,000	20		101 1/2
U. S. 118's	500,000	20		101 1/2
U. S. 119's	500,000	20		101 1/2
U. S. 120's	500,000	20		101 1/2
U. S. 121's	500,000	20		101 1/2
U. S. 122's	500,000	20		101 1/2
U. S. 123's	500,000	20		101 1/2
U. S. 124's	500,000	20		101 1/2
U. S. 125's	500,000	20		101 1/2
U. S. 126's	500,000	20		101 1/2
U. S. 127's	500,000	20		101 1/2
U. S. 128's	500,000	20		101 1/2
U. S. 129's	500,000	20		101 1/2
U. S. 130's	500,000	20		101 1/2
U. S. 131's	500,000	20		101 1/2
U. S. 132's	500,000	20		101 1/2
U. S. 133's	500,000	20		101 1/2
U. S. 134's	500,000	20		101 1/2
U. S. 135's	500,000	20		101 1/2
U. S. 136's	500,000	20		101 1/2
U. S. 137's	500,000	20		101 1/2
U. S. 138's	500,000	20		101 1/2
U. S. 139's	500,000	20		101 1/2
U. S. 140's	500,000	20		101 1/2
U. S. 141's	500,000	20		101 1/2
U. S. 142's	500,000	20		101 1/2
U. S. 143's	500,000	20		101 1/2
U. S. 144's	500,000	20		101 1/2
U. S. 145's	500,000	20		101 1/2
U. S. 146's	500,000	20		101 1/2
U. S. 147's	500,000	20		101 1/2
U. S. 148's	500,000	20		101 1/2
U. S. 149's	500,000	20		101 1/2
U. S. 150's	500,000	20		101 1/2
U. S. 151's	500,000	20		101 1/2
U. S. 152's	500,000	20		101 1/2
U. S. 153's	500,000	20		101 1/2
U. S. 154's	500,000	20		101 1/2
U. S. 155's	500,000	20		101 1/2
U. S. 156's	500,000	20		101 1/2
U. S. 157's	500,000	20		101 1/2
U. S. 158's	500,000	20		101 1/2
U. S. 159's	500,000	20		101 1/2
U. S. 160's	500,000	20		101 1/2
U. S. 161's	500,000	20		101 1/2
U. S. 162's	500,000	20		101 1/2
U. S. 163's	500,000	20		101 1/2
U. S. 164's	500,000	20		101 1/2
U. S. 165's	500,000	20		101 1/2
U. S. 166's	500,000	20		101 1/2
U. S. 167's	500,000	20		101 1/2
U. S. 168's	500,000	20		101 1/2
U. S. 169's	500,000	20		101 1/2
U. S. 170's	500,000	20		101 1/2
U. S. 171's	500,000	20		101 1/2
U. S. 172's	500,000	20		101 1/2
U. S. 173's	500,000	20		101 1/2
U. S. 174's	500,000	20		101 1/2
U. S. 175's	500,000	20		101 1/2
U. S. 176's	500,000	20		101 1/2
U. S. 177's	500,000	20		101 1/2
U. S. 178's	500,000	20		101 1/2
U. S. 179's	500,000	20		101 1/2
U. S. 180's	500,000	20		101 1/2
U. S. 181's	500,000	20		101 1/2
U. S. 182's	500,000	20		101 1/2
U. S. 183's	500,000	20		101 1/2
U. S. 184's	500,000	20		101 1/2
U. S. 185's	500,000	20		101 1/2
U. S. 186's	500,000	20		101 1/2
U. S. 187's	500,000	20		101 1/2
U. S. 188's	500,000	20		101 1/2
U. S. 189's	500,000	20		101 1/2
U. S. 190's	500,000	20		101 1/2
U. S. 191's	500,000	20		101 1/2
U. S. 192's	500,000	20		101 1/2
U. S. 193's	500,000	20		101 1/2
U. S. 194's	500,000	20		101 1/2
U. S. 195's	500,000	20		101 1/2
U. S. 196's	500,000	20		101 1/2
U. S. 197's	500,000	20		101 1/2
U. S. 198's	500,000	20		101 1/2
U. S. 199's	500,000	20		101 1/2
U. S. 200's	500,000	20		101 1/2
U. S. 201's	500,000	20		101 1/2
U. S. 202's	500,000	20		101 1/2
U. S. 203's	500,000	20		101 1/2
U. S. 204's	500,000	20		101 1/2
U. S. 205's	500,000	20		101 1/2
U. S. 206's	500,000	20		101 1/2
U. S. 207's	500,000	20		101 1/2
U. S. 208's	500,000	20		101 1/2
U. S. 209's	500,000	20		101 1/2
U. S. 210's	500,000	20		101 1/2
U. S. 211's	500,000	20		101 1/2
U. S. 212's	500,000	20		101 1/2
U. S. 213's	500,000	20		101 1/2
U. S. 214's	500,000	20		101 1/2
U. S. 215's	500,000	20		101 1/2
U. S. 216's	500,000	20		101 1/2
U. S. 217's	500,000	20		101 1/2
U. S. 218's	500,000	20		101 1/2
U. S. 219's	500,000	20		101 1/2
U. S. 220's	500,000	20		101 1/2
U. S. 221's	500,000	20		101 1/2
U. S. 222's	500,000	20		101 1/2
U. S. 223's	500,000	20		101 1/2
U. S. 224's	500,000	20		101 1/2
U. S. 225's	500,000	20		101 1/2
U. S. 226's	500,000	20		101 1/2
U. S. 227's	500,000	20		101 1/2
U. S. 228's	500,000	20		101 1/2
U. S. 229's	500,000	20		101 1/2
U. S. 230's	500,000	20		101 1/2
U. S. 231's	500,000	20		101 1/2
U. S. 232's	500,000	20		101 1/2
U. S. 233's	500,000	20		



## On Shore and Facing Eastward

## SOUTHERN PACIFIC offers

Choice of Routes and  
Choice of Trains

"SHASTA ROUTE"—Oregon Express.

"OGDEN ROUTE"—New Overland Limited.

"SUNSET ROUTE"—Sunset Limited. Down California Coast. Crescent City Express via San Joaquin Valley.

THE DIRECT ROUTE IS THE OGDEN.

The SHASTA will show you Northern California and Western Oregon.

The SUNSET, Central and Southern California, Arizona, Texas, Louisiana.

FOLDERS AND BOOKLETS AT

Information Bureau

613 Market St., San Francisco.

CARTER'S BOND WORK  
A COMPLETE SUCCESSHis Methods Saved Nearly a Hundred Thousand  
Dollars to the Territory—Opening of  
Bids and Placing of Bonds.

Flak & Robinson, New York, entire issue of 1000 thousand-dollar bonds at	\$1,000,626
Union City Bank, New York, entire issue of million par value	995,261
Hawaiian Investment Co., Honolulu, entire issue as above at	995,045

The foregoing is the result of the public offer of \$1,000,000, part of the Public Improvement bonds of the Territory of Hawaii, advertised in the mainland and at home, and being authorized by resolution of the Legislature of Hawaii approved by the President of the United States.

After the opening of the bids yesterday afternoon, Treasurer Kepoikai, upon the advice of Acting Governor Carter and a representative gathering of business men called for informal consultation in the Secretary's office, sent the following cablegram to the United States Mortgage and Trust Company, the agency for receiving bids in New York selected by Secretary Carter on his most prosperous mission:

"Flak & Robinson bid accepted. Telegraph when money paid."

The accepted bid represents a premium for this bond issue of \$26, or one-sixteenth of one per cent.

At 2:30 in the morning Treasurer Kepoikai received the two New York bids in a cipher cablegram from the agency there. The cipher was taken to the office of the Secretary of the Territory to be translated. This task was performed by Charles B. Buckland, assistant secretary to the Acting Governor.

There were present at the council when the award was made, besides Acting Governor George R. Carter and Treasurer A. N. Kepoikai, the following named gentlemen: E. M. Damon, of Bishop & Co's bank, E. L. Spaulding of the bank of Claus Spreckels & Co., E. C. Jones of the Bank of Hawaii, Attorney General L. Andrews, Auditor J. H. Fisher, J. A. Gilman, W. F. Fothergill, F. M. Swamy, Clarence H. Cooke, B. F. Dillingham, F. J. Lowrey, John Waterhouse and Deputy Auditor H. C. Meyer.

Mr. Jones, when the Treasurer solicited advice as to the most advantageous bid to accept, unhesitatingly pronounced in favor of Flak & Robinson's. In the course of conversation following the decision, Mr. Jones related his experience in unavailing trying to float a conversion of bonds under the Republic of Hawaii, when Mr. Damon was Finance Minister, although accepting concessions were offered.

Acting Governor Carter backed the action of Mr. Jones, maintaining there was no question of the superiority of Flak & Robinson's offer.

Mr. Damon, after the rest of the council had given coinciding views with those of Messrs. Carter and Jones, made an address warmly congratulating Mr. Carter on the result of his re-

cent mission to New York and Washington. It was the first time that a loan of such an amount had ever been placed satisfactorily to the Hawaiian Islands. Not only did it redound to the credit of the Acting Governor, but it also reflected credit on the Hawaiian Islands.

At the instance of the Acting Governor, the meeting then cheerfully ratified the acceptance of the bid of Flak & Robinson.

Acting Governor Carter again evinced his grasp of the entire business at the moment the decision was reached. He insisted upon the importance of calling an immediate acceptance of the bid of Flak & Robinson. Otherwise there would be a liability of manipulating the knowledge of the situation, when made public as it must be, by New York financiers so as to make a round \$20,000 or more out of the Territory. This might have been done through a withdrawal of the bids, coupled with refusal to take the bonds, and a holding up of the Territory for better terms.

What has been gained for the Territory by the masterly handling of the loan from first to last may here be summed up:

Saved by reduction of interest from 5 per cent. to 4 1/2 per cent. in fifteen years	\$15,000
Saved in premium over the result of selling the bonds under the original plan	\$5,045
	\$20,045

It was estimated yesterday that the cost of sending the money here from New York will amount to but \$200.

The bonds will bear interest from October 1, 1904, and the amount accruing up to November 24 is payable on delivery of the bonds.

All of these happy results have been achieved at an expense of probably less than \$2000.

The men about Kepoikai are not able to keep their own noses above water politically and they don't mind having Kepoikai go down with them. Money loves company.

European powers are binding themselves with arbitration treaties. Is this the first step toward the partial disarmament advocated by the Czar?

Who wouldn't ride with Dickey now?

PROTECT YOURSELF and family against attacks of pneumonia by using at once a bottle of Chamberlain's Cough Remedy. If this remedy is taken on the first appearance of a cold all danger will be avoided. It always cures and cures quickly. Sold by all dealers and druggists. Remedy, Smith & Co., Ltd., Agents for Hawaii.

UNITED STATES JUDGE  
DOLE BEGINS WORK

(Continued from page 1.)

of various nationalities with various ways of looking at things, but after all, in my opinion, it is a good kind. It has been because the Hawaiian community has not been without a head that things have been accomplished. We have seen in the last ten years since 1893 many disturbances in the affairs of Hawaii. The occupant of the throne had, for a time at least, disavowed constitutional obligations, and in the opinion of many vigorous minds it was a fitting occasion for declaring the throne vacant. Then occurred the question, which had to be decided immediately, whether Kaula, the heir apparent, should be the successor, or a new Government should be established. I did not know myself, and I have no right, except by inference, to say what your own opinion was at that time. You were able to do, however, what every man can not do without regard to your personal preference, take up the course decided upon in that emergency by the forceful minds of the community.

Right there was a critical time. I do not think there was a single other man in this community who could have taken the position which you took with equal chances of success, and who could have commanded the confidence of all classes, both our friends among the Royalists and other nationalities with the comparatively small American element which had determined upon this course. It was, I think, the feeling of confidence in your personal integrity, and that you would unselfishly safeguard the interests of the public. It was from that feeling of confidence in your own fairness more than the armed or any other forces here, that the country lived through this critical point. This is my calm judgment of the situation, and I think history will so record it.

As far as I know, the most fault that has been found with your administration of the Executive has been that you were not partisan enough. Whether it was from your temperament, or your view of right principles, you were not regarded as an ideal partisan. I am speaking plainly. It was felt that you were just, and that was our mainstay during those critical years. It was the feeling your opponents had that you would see the fair thing done that was the salvation of this community.

I believe there is not a Hawaiian in these Islands who is not fully in accord with those sentiments.

As to the choice which has come to you, you have the rare good fortune, as I look at it, never to have sought for them. When it came to organizing the Territory of Hawaii, and the appointment of the first Governor of the Territory, I know very well what was said at that time with reference to that appointment. I reveal no confidence, I think, when I say that on the eve of my going to Washington to look after the interests of the Hawaiian Islands in Congress, your friends said they thought it was your duty to say what you wanted, whether you wanted to be Governor, or to enable them to take up your side. They felt strongly on that subject, and I look the liberty of telling you what I thought, suggesting that it was your duty in that instance for the man to seek the office, and if you wished the office, to say so. But I went away from Hawaii without the slightest hint of what your wishes were. You went so far as not even to tell me whether you would take the position if offered you.

It was suddenly said that my main object in going to Washington was to secure the appointment of Governor for you, and yet when I was asked whether you wished the appointment, I had to say I did not know.

I like to think it is possible that this position of yours was appreciated by the best men in Washington. And this position that you have taken now, as Federal Judge of the Territory of Hawaii, I like the manner it has come to you, unsought, unolicited, so far as I know, and I think I know the facts. Even when the position was mentioned for you, it was not known whether you would take it. The most that was said was that it was believed you would.

It is a rare and fortunate thing in public life to have such experience as has been yours. I believe that this community in its inmost heart, regardless of partisanship, wishes you well in your appointment, and that you can feel assured of that. In your performance of duty, in your judgment of matters before you, with your judicial temperament, every one feels that you will administer justice without fear or favor, partiality or hope of reward. You can carry along with you the assurance of the confidence felt, that you intend to do the right thing, to the best of your ability, and that you will do so.

We know that you will administer your duties as United States District Judge with conscientiousness, and we hope that you will find that duty a great relief from the Executive duties of the last ten years.

I have been requested by the Executive Committee of the Bar Association to extend to you your congratulations and best wishes, and I do so with the greatest pleasure. (Applause.)

## OTHER ADDRESSES.

Cecil Brown said in part: "You have been tried as a standard bearer in other prominent positions in this country during many years, and in periods calling for the exercise of great judgment and discretion, and in every case you have not been found wanting in any degree, of the qualities made necessary by the circumstances surrounding or attending your administration during such periods. And I venture to say (and I know no one will gainsay me), that in your administration of the high and exalted position of District Judge of the United States District Court for the Territory of Hawaii, you will but follow in the footsteps which you have heretofore made for yourself, and impartially and judi-

ciously administer and cause to be enforced the laws, and administer even-handed justice to all, tempering such justice with mercy whenever in your opinion or judgment it is necessary or proper."

Attorney General Andrews uttered a feeling of sadness at parting from Governor Dole in the executive. They all appreciated how honestly and efficiently he had directed the affairs of the Territory. The heads of departments had leaned on his judgment, trusting in its soundness. They believed in the principle adopted by the President, who recognized that they had a jurist in the Territory of Hawaii well fitted to fill the office of Federal Judge. It was a matter on which the whole Territory should congratulate itself. "Like Cincinnati you have taken up the plow again—the judicial plow," Mr. Andrews concluded. "We know that no man is more capable than yourself for this position."

C. W. Ashford thought it would be unfortunate if all the expressions on that occasion came from one particular class of political thought. He wished to add his views to those that had been expressed. Sixteen years ago it became his duty—he thought in that very room—as Attorney General to contend that Mr. Dole's appointment to the bench at that time was legal. His contention prevailed and he was well satisfied with the result. For a long time before Judge Dole had the confidence of the community. The office then sought the man, as it had done with Judge Dole in other cases since. As he had opposed him in his later position, he felt the more free to express his sentiments now. Through all the rumors of the crises since 1893, at no time had the confidence of the community in Mr. Dole's absolute fairness, soundness and disposition to do right with all men been wanting, nor was it shaken in his desire for justice and in his strict integrity now abated.

C. C. Bittling wanted to speak for the younger members of the bar. As a son of old Virginia, whose father and brother had given their lives fighting against the flag under which Judge Dole was sworn, he would say that Hawaii could not have a greater honor conferred on it than the appointment of Sanford B. Dole as the guardian for this Territory of the constitution of the greatest nation in the world. On behalf of the younger members he would express their utmost confidence in Judge Dole.

F. M. Hatch dwelt eloquently upon that prime characteristic of Judge Dole, his judicial temperament. It was at the very foundation of success in that honorable office. "In you it is a gift of nature," Mr. Hatch said to the Judge. It happened to few men to be put to such a test as Mr. Dole had stood for the past ten years as the chief executive of these islands. Every man would remember how passion ran high, when more than mere party passion prevailed, when the destiny of Hawaii was in question, when blood was cowardly shed and there was a cry of vengeance. "You stood unflinched. It was a triumph of the judicial temperament," Mr. Hatch said in conclusion that he trusted that in that court the highest type of true Americanism would continue to be illustrated, and the kind which wanted itself, but the type which administered justice in the highest integrity.

A. L. Robinson made a short address in Hawaiian.

Henry B. Lighton began an eloquent speech with his opinion that the position to which Mr. Dole had been appointed was one of the highest importance. On the broad standard of American citizenship he believed the President had done honor to Hawaii. He knew of no position on earth which was greater than that of an American Judge.

J. M. Vives recalled a visit he had paid Mr. Dole on his accession to the Governorship. "I told you then," the speaker said, "that your place was on the bench. I am glad that you are again on the bench. Congratulations should not come alone from the bar but from all young Americans." The late Judge Estee as guardian of the constitution initiated many into the principles of Americanism. The President must be very careful in his appointments, and he paid a compliment to the Territory of Hawaii of which every young man in the Territory should be proud.

George A. Davis said the bar could look forward to the administration of impartial justice by Judge Dole. Referring to the Mankle case, he spoke of the narrow majority by which Judge Estee had been overruled and said a motion was to be made in the U. S. Supreme Court for a rehearing. In England as in America it was a high honor to be called to the bench. The speaker then introduced his recent troubles in the Territorial courts, saying that when enemies assailed him on every side Governor Dole was silent and did not ask for his resignation from the Honolulu district magistracy. "No mistake was made," he concluded, "in appointing you to the position which Judge Estee so honorably and ably filled."

## BUSINESS BEGINS.

Clerk Maling then read the commission and the subscribed oath of Judge Dole.

Judge Dole said there had been no opportunity for an expression of sentiments in that court relating to the death of Judge Estee. He would therefore appoint District Attorney Breckons, Judge Hartwell and Mr. Rawlins as a committee to draft memorial resolutions and report.

Mr. Breckons, on behalf of the Federal officials, tendered congratulations to Judge Dole. He then moved for an order to the Marshal to bring before the court the next morning all defendants against whom indictments had been presented. Also he asked for an order for the attendance of grand and trial jurors.

The orders were made, and the roll of grand jurors called. The court was then adjourned until 10 o'clock this morning.

Kepoikai has discovered that President Johnson was impeached. He must have been studying things American in the columns of the Independent.

MR. DICKEY  
WINS OUT  
Gains the Penalty  
Besides His  
Point.

Lyle A. Dickey has won his suit against the Honolulu Rapid Transit Company for recovery of the \$100 penalty on account of a conductor's refusal to give him a certain transfer. Judge De Bolt's decision in favor of the defendant corporation is reversed by the Supreme Court, with directions to the Circuit Court to render judgment for the plaintiff for the amount claimed. It is a unanimous opinion of the appellate court, written by Justice Perry. Mr. Dickey appeared in person, and Castle & Withington for the defendant.

The syllabus of opinion giving the law of the case is as follows:

A passenger on the cars of the Honolulu Rapid Transit & Land Company may not lawfully be charged more than five cents for a continuous ride from the corner of King and Keolu streets, along King, McCully, Beretania and Alexander streets to Wilder avenue. Such a passenger is entitled, without the payment of an extra fare, to transfer from the King street to the McCully street line and to receive a transfer ticket therefor.

## THE CASE STATED.

At the outset the opinion states the case. It is shown that the plaintiff sued under Sec. 9 of Act 59, Laws of 1898 (the Rapid Transit Co's franchise statute), to recover of the defendant the sum of one hundred dollars for an overcharge alleged to have been made by the defendant on April 7, 1903, while the plaintiff was a passenger on its cars. After laying down the various routes of defendant's tracks, the opinion says:

At the corner of McCully and King streets, the overhead wires were not connected. The plaintiff entered an east-bound car of the defendant on King street at the corner of Keolu street, paid five cents as his fare and asked for a transfer ticket to a car going mauka on McCully street. This request was refused. At the corner of King and McCully streets the plaintiff left the King street car and entered the first car on McCully street, going mauka and left the latter at the corner of Wilder avenue and Alexander street. While on the last mentioned car the plaintiff was charged and paid an additional sum of five cents as fare. It is for this alleged overcharge that the action is brought. The facts of the case are undisputed and the only question is whether under the provisions of Act 59 the defendant could lawfully refuse to give the transfer ticket demanded and charge an additional fare on McCully street.

Then the governing section of the law is quoted, which provides a fare not to exceed five cents "for a continuous ride anywhere between Diamond Head and Moakala, or makai of a line drawn parallel to the sea coast and one and a half miles distant therefrom," with half fare to children going to and from school; also for transfers from one car to another on such continuous trip, upon a connecting line within the limits above mentioned; also for regulations by the corporation with the approval of the Governor, and, finally, the penalty of \$100 for an overcharge.

## NOT A RETURN TRIP.

The court makes it plain that a return trip is not in question in this case, as the plaintiff did not make nor attempt to make a circuit of the entire rapid transit system on transfers. The opinion on this point reads:

The ground traversed by the plaintiff in his ride was wholly between Moakala on the west and Diamond Head on the east and is conceded to have been wholly makai of a line drawn parallel to the sea-coast and one and a half miles distant therefrom. It was entirely within the outer geographical limits prescribed by the first subdivision of the section. There is no requirement that each five cent ride shall be in one general direction. A limitation as to direction may perhaps be inferred from the use of the word "trip" in subdivision 2 and the word "ride" in subdivision 1. It may be that these words of themselves should be held to indicate an intention on the part of the Legislature to prevent the taking of a return trip for the one fare (see Dickey v. Haw. Tramways Co., 10 Haw. 287, 289); but it is unnecessary to pass upon that point in this case, for the plaintiff did not attempt to take a return trip. He traveled in one general direction only, away from his starting point as much so as if he had continued to the Manoa valley terminus of the line. Nor need we say how much beyond the corner of Wilder avenue and Alexander street the plaintiff could have ridden before the company could have lawfully charged him an additional fare; it is sufficient for the purposes of this case to say that the ride which he did take was well within all the limitations prescribed by the statute.

## ROUND TRIPS NOT ENCOURAGED.

It is further made evident, by the following words of the opinion, that the court does not encourage any abuse of the transfer privilege:

The main argument for the defendant is that to uphold the plaintiff's contention is to enable a passenger to ride "around and around" for a single fare or at least to open the door for fraud of that kind. We do not hold that a passenger may so ride. As to the possible perpetration of fraud, the

company is authorized by the statute to make, with the approval of the Governor, reasonable rules and regulations to prevent it and its officers and employees will as doubt be able to devise such rules as will prove effective to carry out that purpose and prevent passengers from riding beyond the point to which they may lawfully ride for one fare.

The plaintiff's ride was a continuous one, and the line to which a transfer was demanded was a connecting line within the meaning of the statute. The mere fact that the overhead wires were not then connected at that corner would not, of course, render the McCully street line any the less a connecting line (see Dickey v. Haw. Tramways Co., supra, and Haw. Tramways Co. v. Sturdevant, 10 Haw. 599); nor can the company by a mere rule make a line a connecting one for some purposes and a non-connecting one for other purposes. Its power to make rules is always subject to the limitation that such rules must not conflict with the other provisions of the statute.

NAKUINA THE MOST  
PRINCELY SPENDER

Following are further returns of expenses of candidates in the county elections filed with Registrar C. R. Buckland:

Oahu County—A. Fernandez, supervisor, \$100; Chas. Wilcox, auditor, \$100; W. T. Rawlins, attorney, \$94; S. C. Dwight, supervisor, \$45; Chris. Williams, surveyor, \$25; J. H. Wise, sheriff, \$114; Frank Harvey, supervisor, \$41; David Notley, supervisor, \$75.60; J. W. Pratt, assessor, \$79.60; M. K. Nakuina, clerk, \$22.70; J. A. Gilman, supervisor, \$72; A. M. Brown, sheriff, \$22.75; J. H. Boyd, supervisor, \$55; John Lucas, supervisor, \$41; M. P. Robinson, supervisor, \$12.25.

West Hawaii county—S. K. Pua, clerk, \$45; John Kaelemakule, supervisor, \$59.75.

Kauai County—Edward Palmer, clerk, \$25.

Mr. Nakuina bears away the championship belt of the Territory for munificence. The old saw that "money talks" has been made toothless in his case, for he had the not unusual fate of the independent candidate in being most unmercifully rolled down the snowy slopes.

HU YONG SUES  
BISHOP & CO.

Hu Yong yesterday brought suit against Bishop & Co. for \$2,500 damages for alleged false arrest. The Chinese plaintiff claims to have gone into Bishop's bank in the ordinary course of business, when he was accused of attempting to pass counterfeit money. The bank officials are charged with having called to High Sheriff Brown and the plaintiff says he was wrongfully detained for forty hours. For all remedies he demands damages in the amount of \$2,500.

The case grows out of the arrest of two Chinese, a great one for an alleged attempt to pass counterfeit money. The men were taken before the United States commissioner and discharged after their arrest. It seems they had a lot of old quarters, received from China, in their possession, and which were thought to be bogus. The mint officials, however, said they were good and lawful coin of the realm and the charge was dropped.

PLANTATION CAN'T  
GET ITS MONEY

The Honolulu Plantation Co. is still waiting for the \$75,000 which the Navy Department agreed to pay for lands taken for the Pearl Harbor naval station. The final papers have already been drawn up, but unfortunately just at present the United States cannot lay its hands on the money. Not that the government is so near bankrupt as to be unable to pay a little bill of \$75,000, for the money is on deposit in the bank here. The fund is to the credit of the late Paymaster Stewart Rhodes and Paymaster Brown cannot draw the necessary amount. Orders will have to be awaited from Washington transferring the Navy Department's account to the order of Paymaster Brown. In the meantime the Honolulu Plantation is losing in interest nearly twenty dollars for each day of delay.

## Grand Jury Has Possession Case.

Hawaii would not be itself if it did not furnish its table with a share of any spice of scandal in the mainland marts of gossip.

They are not yet done over there with the postoffice regulations and their sequence of blighted reputations. Whether Hawaii has a share of the main series or only something like a doctored postage stamp case may shortly be known—that is, through a grand jury report. Happily, though, nothing may develop more than an unintelligible statement of cases investigated without tangible result.

What is known is that the Federal grand jury for the District of Hawaii is investigating a postoffice case.

## CHILDREN LIKE TO TAKE IT—

The sweet quality of translated loaf sugar is used in the manufacture of Chamberlain's Cough Remedy, and the roots used in its preparation give it a flavor similar to maple syrup, making it quite pleasant to take. Children like to take it and it has no副作用 after effect. It always cures. For sale by all dealers and druggists. Remedy, Smith & Co., Ltd., Agents for Hawaii.











